

Notice of Allowability

Application No.

10/788,877

Examiner

Charles Goodman

Applicant(s)

POTEET, MICHAEL A.

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed on 6/22/06.
2. ☒ The allowed claim(s) is/are 1-18,20-24,26-29 and 33-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


CHARLES GOODMAN
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Byron S. Kuzara on October 2, 2006.

The application has been amended as follows:

Claims 36-39 have been CANCELLED.

2. The following is an examiner's statement of reasons for allowance:

The prior art of record do not anticipate nor do they reasonably suggest the culinary implement as claimed in claims 1, 12, 21 and 24. The closest prior art, Scheminger (US 5,555,625), teaches a rotary cutter comprising many of the claimed features including, inter alia, a handle (16); an attachment arm (20); and a head portion (e.g. 12) wherein the head portion is positioned such that the longitudinal axis of the handle extends through the head portion and between the first and second circular sides of the head portion. Note Figs. 1-5, especially Fig. 3. However, Scheminger lacks the attachment arm attaching to only the second side of the head portion and is absent from the first side of the head portion. Another closely related prior art, Smith (US 699,584), teaches a paper cutter in which the head portion (D) is attached the attachment arm on one side of the head portion only. However, as shown in Fig. 2, the longitudinal axis of the handle (A) does not extend between the two circular sides of the head portion.

Similar reasoning applies to claims 1, 12, 21, and 24. Any modification of Scheminger

with the teachings of Smith would destroy the teachings of Scheminger since Scheminger specifically includes a swing arm (20) which attaches to the other side of the circular head portion thereby negating the requirement of the one sided attachment set forth in the claims. Conversely, modification of Smith in view of the teachings of Scheminger would be construed as improper hindsight reasoning since it would be the Applicant's disclosure that provides the motivation as opposed to the prior art. For example, Smith's device is used to cut paper with the use of a guide (J). Thus the cutting head is leveraged thereagainst as shown in Fig. 2 of Smith. If the arm and the head were so designed such that head is collinear with the longitudinal axis of the handle, the leverage to be had would be subpar than the offset shown in Smith.

Regarding claim 33, the closest prior art, Mould (US 3,924,328), teaches a cutting tool comprising, inter alia, a handle (e.g. to the left of 2 in Fig. 2) and projections (e.g. 24) that are pyramidal. However, none of the projections have a configuration that is twisted in a direction that extends around a height axis of the projection.

Thus, it is believed that the claimed inventions with the lacking features in combination with all the other recited elements are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (571) 272-


Art Unit: 3724

4508. The examiner can normally be reached on Monday-Friday between 8:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley, can be reached on (571) 272-4502. In lieu of mailing, it is encouraged that all formal responses be faxed to **(571) 273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

cg
October 2, 2006


Charles Goodman
Primary Examiner
AU 3724

CHARLES GOODMAN
PRIMARY EXAMINER